

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

1. The petitioner filed three separate applications for GA in March 2003 for temporary housing. Each one was denied by the Department due to its determination that the petitioner was not facing a "catastrophic" emergency need.

2. The petitioner is currently subletting a room in a home owned and occupied by the primary tenant. The landlady has told the petitioner she wants him to leave, and she has contacted the Department to confirm this and to question why the petitioner has not been found eligible for GA. However, there is no evidence that she has taken any legal action to evict the petitioner.

3. The petitioner has income from Social Security of over \$800 a month. His rent is \$350 a month.

4. The petitioner alleges that the room he rents has inadequate heat and that the apartment door does not shut properly, allowing his landlady's pets to enter his room when he is not there. He has repeatedly applied for GA for temporary housing until he can find another place to move to.

5. The petitioner represents that he has complained about the condition of his living quarters to the Vermont Department of Health, but that no action was taken as a result of his complaint.

II. Transportation Costs.

6. The petitioner, who lives in Swanton, is a frequent visitor to the Department's district office in St. Albans, either to apply for GA or to discuss problems with other

programs, or to appear at fair hearings he has requested. The petitioner has also attended several meetings of the Human Services Board in Montpelier.

7. Pursuant to a request made by the petitioner dated March 26, 2003, the Department has agreed to reimburse the petitioner all his mileage costs incurred in attending all his fair hearings and Board meetings back to November 2002. The petitioner also wants reimbursement for a Board meeting he attended on July 18, 2001, which the Department has denied as being an untimely request.

8. The Department has also denied the petitioner any reimbursement for the many trips he has made to the district office that did not concern a fair hearing.

9. The petitioner has been mailed copies of the Board's Fair Hearing Rules every time he has requested a fair hearing, including the July 2001 case and on November 27, 2002 for another appeal.

III. Storage of Personal Property.

10. The Department has denied the petitioner's requests for reimbursement from GA for expenses he incurs storing some of his personal property at a facility located 15 miles from his home. The Department also refuses to allow the petitioner

a deduction from his income for these expenses in the calculation of his Food Stamps.

11. These expenses allegedly include the cost of renting the storage unit and travel costs incurred by the petitioner travelling back and forth to access this property from time to time. The petitioner maintains that he does not have room at his residence to store this property.

ORDER

The Department's decisions is affirmed.

REASONS

I. Temporary Housing.

The General Assistance regulations provide that households with income in excess of the Reach Up Financial Assistance (RUFA) maximum can only receive additional financial assistance if they are experiencing a "catastrophic situation". See W.A.M. 2600 et. seq. The petitioner's income is well in excess of the RUFA payment level for a one-person household. W.A.M. §§ 2244-2249. The GA regulations defining catastrophic situation in the context of loss of housing are reproduced below.

In addition to the above, The GA regulations governing "Temporary Housing" provide that such payments are made only when "alternative arrangements are not available". W.A.M. § 2613.2. In numerous past fair hearings the Board has affirmed the Department's policy or "protocol" that, especially for single individuals, homeless shelters, which in Vermont usually offer supervision and counseling or referral services to their residents, and which usually include access to free meals, constitute a suitable, if not preferable, "alternative arrangement" for a homeless person within the meaning of the above regulation and as a matter of sound social policy. See Fair Hearing Nos. 17,823, 15,383, 13,380, 13,315, and 13,048. The Board has specifically held that to require the Department to fund stays in other forms of temporary housing, like a motel, an applicant must demonstrate that an available homeless shelter is unsuitable either for medical reasons (see e.g., Fair Hearing Nos. 17,823 and 13,380) or that it would be unreasonable to expect the applicant to temporarily relocate his place of residence (see e.g., Fair Hearing No. 15,383).

Even accepting the petitioner's allegations regarding his present living situation at face value, there is no evidence of any of the following: that he is facing an imminent eviction, that the defects at his home are serious enough to

render the premises "unfit for occupation", or that the petitioner has fully pursued redress of the situation through an appropriate state or local official or agency. Moreover, even if he was able to demonstrate an actual or constructive eviction, he has made no showing that moving to a homeless shelter (something he is free to do at any time if the situation is so bad) would be medically contraindicated.

For all the above reasons, the Department's decision denying him GA for temporary housing must be affirmed. 3
V.S.A. § 3091(d), Fair Hearing Rule No. 17.

II. Transportation Costs.

As noted above, the Department has agreed to reimburse the petitioner for his transportation costs in attending all his fair hearings and Board meetings going back to November 2002. This is in keeping with Human Services Board Fair Hearing Rule No. 6. However, the Department has refused to reimburse the petitioner for attending a Board meeting in a case that was decided by the Board in July 2001.

All individuals who request fair hearings are provided copies of the Board's rules every time they request a hearing. The Board's records show that in addition to the ruling the petitioner received from the Board on July 18, 2001, he was

mailed a copy of the Board's hearing rules on November 27, 2002 pursuant to another request for hearing he had filed (Fair Hearing No. 18,090). The record shows that the petitioner did not make any request for reimbursement for the July 2001 Board meeting until March 26, 2003. Although there do not appear to be any rules specifically governing the timeliness of such requests for reimbursement, it must be concluded that the petitioner's request regarding the July 2001 Board meeting is far beyond any reasonable amount of time that would now require the Department to reimburse him for this expense.

Under Fair Hearing Rule No. 1, individuals have a right to request a fair hearing within 90 days after their grievance arises. The RUFA regulations allow claims for "underpayments" to be made within one year. W.A.M. § 2234.1. Similarly, the Food Stamp regulations impose a one-year limit for "restoration of lost benefits". F.S.M. § 273.17. In light of the above, it must be concluded that the petitioner's claim for reimbursement for travel expenses he incurred in connection with a Board meeting that was held more than 20 months in the past, and four months after the petitioner was again notified of his right to claim such reimbursement, is untimely.

As for the petitioner's claim for reimbursement for his trips to the district office to attend to matters not connected with a fair hearing, there is simply no provision under the regulations of any Department program that would allow for payment of these expenses. Absent any legal basis to support the petitioner's claim, the Department's decision denying payment for these expenses must be affirmed. Id.

III. Storage of Personal Property.

As discussed in detail above, the petitioner is not eligible for GA for any purpose unless he can demonstrate that he is facing a "catastrophic situation" as defined by the regulations. The petitioner has not shown that he is facing any emergency due to the fact that he stores his personal property in a location 15 miles distant from his home. Even if he was, maintenance of personal property is not included under the Department's definition of catastrophic situation. Therefore, it must be concluded that the petitioner does not qualify for GA to cover either his storage fees or his travel expenses in connection with maintaining and accessing his personal property.

For Food Stamps the amount of a household's monthly allotment is determined according to household income minus

any applicable deductions. FSM § 273.9 et seq. All households are entitled to a standard deduction of \$134 (FSM § 273.9d(1) and Procedures Manual P-2590-A) and to an excess shelter deduction in the amount that their shelter costs exceed 50 percent of their income (FSM § 273.9d[5]). The petitioner also qualifies for a deduction for the amount that his Medicare premium exceeds \$35 a month (FSM § 273.9[d][3][v.]).

Expenses incurred by a household in connection with the storage of personal property are not included in the exclusive listing of allowable shelter costs. FSM § 273.9d[5]. Moreover, under the Department's regulations the cutoff net income figure for a single-person household to qualify for more than the \$10 a month Food Stamp payment minimum is \$410 (Procedures Manual § P-2590 D9). Given that the petitioner's net income is far in excess of this amount, even if he were allowed a deduction for all his costs incurred in maintaining and accessing his personal property it is highly unlikely that it would make any difference in the amount of his Food Stamps.

Inasmuch as the Department's decisions regarding the petitioner's personal property expenses are clearly in accord with the pertinent regulations they must be affirmed. Id.

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